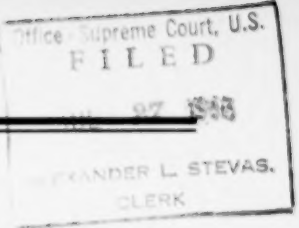


No. 82-2141



IN THE
Supreme Court of the United States
OCTOBER TERM, 1982

RITA CHEREN,

Petitioner,

—v.—

BECHTEL INCORPORATED and
BECHTEL INTERNATIONAL CORPORATION,

Respondents.

**BRIEF OF RESPONDENTS IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI TO
THE APPELLATE DIVISION, FIRST DEPARTMENT,
SUPREME COURT OF THE STATE OF NEW YORK**

ARNOLD BAUMAN

Attorney for Respondents

Bechtel Incorporated and

Bechtel International Corporation

Shearman & Sterling

53 Wall Street

New York, New York 10005

(212) 483-1000

Of Counsel:

Shearman & Sterling

WERNER L. POLAK

DENNIS P. ORR

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Bechtel Incorporated and Bechtel International Corporation (collectively "Bechtel") respectfully submit this brief in opposition to petitioner's petition for a Writ of Certiorari dated June 27, 1983 (hereinafter "the petition"). As no federal questions are presented here, nor were any raised below, and since no special and important reasons exist for this Court to act, the petition should be denied.

STATEMENT OF THE CASE

Petitioner's complaint alleged violations of New York law in that petitioner, a former employee of certain defendants,* claimed that she was discriminated against by defendants on account of her sex, religion and age, and was "abusively discharged" when Bechtel's offices were removed from New York City to Houston, Texas in July, 1976. Petitioner failed to take any action against Bechtel until the commencement of this action on August 8, 1980.

The Supreme Court, New York County, at Special Term, applying New York state law dismissed petitioner's complaint holding that petitioner's claims of employment discrimination were time-barred and that her claims of "abusive discharge" failed to state a claim under New York law. (See decision of Mr. Justice Greenfield, dated May 28, 1981, copy attached at page 11a of the Appendix to the petition.) On appeal, the Appellate Division, First Department unanimously affirmed the dismissal. (See order at page 5a of the petition.) The New York State Court of Appeals unanimously denied petitioner's motion for leave to appeal. (See order at page 1a of the petition.) Petitioner now seeks a Writ of Certiorari.

* Bechtel Incorporated and Bechtel International Corporation were the only defendants served.

For purposes of Rule 28.1 of this Court's Rules, the pertinent affiliates of the Bechtel group of companies are listed in the caption of the Decision of the Supreme Court of the State of New York, County of New York, at page 11a of the petition. The Bechtel group of companies is privately-held and owns no majority interest in a publicly-held company.

REASONS FOR DENYING THE WRIT

PETITIONER FAILS TO MAKE NECESSARY SHOWING OF SPECIAL AND IMPORTANT REASONS AND OF A FEDERAL QUESTION

Certiorari is granted by this Court, not as a matter of right, but only where there are special and important reasons therefor. U.S. Sup. Ct. Rule 17.1, 28 U.S.C.A. No such reasons are evident here and, as a result, the petition should be denied.

Attempting to meet this criterion, petitioner tries to transform this case from a routine application of New York state law by New York courts into a "special and important" matter by arguing that the courts below decided a federal question. Federal law, however, was not addressed by the New York courts, which premised their decisions on New York law. *Rita Cheren v. Bechtel Corporation*, ____ App. Div. ____, 455 N.Y.S.2d 1015 (1st Dep't 1982) (See copy attached at page 5a of the petition); *Rita Cheren v. Bechtel Corporation*, No. 18490/80 (N.Y. Sup. Ct. May 28, 1981) (See copy attached at page 11a of the petition).

To support petitioner's argument that her petition warrants the attention of this Court, petitioner cites nine cases, all of which are inapposite to the case at bar. In those cases, federal courts addressed issues of federal law (e.g., Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e; the Age Discrimination in Employment Act, 29 U.S.C. § 621; the Sherman Antitrust Act, 15 U.S.C. § 1), while in the present case, New York state courts unanimously applied principles of New York law to dismiss claims petitioner attempted to state under New York statutory and common law. No substantial federal question, therefore, is presented for this Court to review. *Murdock v. Memphis*, 87 U.S. (20 Wall.) 590, 636 (1874) (no Supreme Court review of judgments that rest on adequate and independent state grounds); U.S. Sup. Ct. Rule 17.1, 28 U.S.C.A. Petitioner made no claims under Title VII or the Age Dis-

crimination in Employment Act in any proceeding below and, under well-settled doctrine of this Court, these issues may not be raised here. *Tacon v. Arizona*, 410 U.S. 351 (1973).

Furthermore, the unanimous decisions of the New York state courts in no way conflict with any decision of this Court or with federal law. Petitioner's reliance on *Crown, Cork & Seal Co., Inc. v. Parker*, 51 U.S.L.W. 4746 (June 13, 1983) and *American Pipe & Construction v. Utah*, 414 U.S. 538 (1974) is misplaced since those cases concerned suits filed in federal courts under federal statutes. *Crown*, 51 U.S.L.W. at 4746 (Title VII); *American Pipe*, 414 U.S. at 538 (Sherman Anti-trust Act). Here, petitioner sued in New York state court under state law.

This case involves the application of settled New York law to dismiss petitioner's claims. As a result, no special and important question is presented and certiorari should be denied.

CONCLUSION

For the reasons stated above, the petition for a writ of certiorari should be denied.

Dated: July 26, 1983

Respectfully submitted,

ARNOLD BAUMAN

*Attorney for Respondents
Bechtel Incorporated and
Bechtel International Corporation*

Shearman & Sterling

53 Wall Street

New York, New York 10005

(212) 483-1000

Of Counsel:

Shearman & Sterling

WERNER L. POLAK

DENNIS P. ORR